

(4) Whether, in the case of a petition to declare a consumer product a “banned hazardous product” under section 8 of the CPSA, the product is being or will be distributed in commerce and whether a feasible consumer product safety standard would adequately protect the public from the unreasonable risk of injury associated with such product.

(b) In considering these factors, the Commission will treat as an important component of each one the relative priority of the risk of injury associated with the product about which the petition has been filed and the Commission’s resources available for rule-making activities with respect to that risk of injury. The CPSC Policy on Establishing Priorities for Commission Action, 16 CFR 1009.8, sets forth the criteria upon which Commission priorities are based.

§ 1051.10 Granting petitions.

(a) The Commission shall either grant or deny a petition within a reasonable time after it is filed, taking into account the resources available for processing the petition. The Commission may also grant a petition in part or deny it in part. If the Commission grants a petition, it shall begin proceedings to issue, amend or revoke the rule under the appropriate provisions of the statutes under its administration. Beginning a proceeding means taking the first step in the rulemaking process (issuance of an advance notice of proposed rulemaking or a notice of proposed rulemaking, whichever is applicable).

(b) Granting a petition and beginning a proceeding does not necessarily mean that the Commission will issue, amend or revoke the rule as requested in the petition. The Commission must make a final decision as to the issuance, amendment, or revocation of a rule on the basis of all available relevant information developed in the course of the rulemaking proceeding. Should later information indicate that the action is unwarranted or not necessary, the Commission may terminate the proceeding.

§ 1051.11 Denial of petitions.

(a) If the Commission denies a petition it shall promptly notify the petitioner in writing of its reasons for such denial as required by the Administrative Procedure Act, 5 U.S.C. 555(e).

(b) If the Commission denies a petition, the petitioner (or another party) can refile the petition if the party can demonstrate that new or changed circumstances or additional information justify reconsideration by the Commission.

(c) A Commission denial of a petition shall not preclude the Commission from continuing to consider matters raised in the petition.

PART 1052—PROCEDURAL REGULATIONS FOR INFORMAL ORAL PRESENTATIONS IN PROCEEDINGS BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

Sec.

1052.1 Scope and purpose.

1052.2 Notice of opportunity for oral presentation.

1052.3 Conduct of oral presentation.

1052.4 Presiding officer; appointment, duties, powers.

AUTHORITY: 15 U.S.C. 1193(d), 15 U.S.C. 2058(d)(2), 15 U.S.C. 2076(a), and 5 U.S.C. 553(c).

SOURCE: 48 FR 57122, Dec. 28, 1983, unless otherwise noted.

§ 1052.1 Scope and purpose.

(a) Section 9(d)(2) of the Consumer Product Safety Act, 15 U.S.C. 2058(d)(2), and section 4(d) of the Flammable Fabrics Act, 15 U.S.C. 1193(d), provide that certain rules under those statutes shall be promulgated pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views or arguments in addition to the opportunity to make written submissions. Several rulemaking provisions of the statutes administered by the Commission are subject only to the rulemaking procedures of the Administrative Procedure Act. Section 4(c) of the Administrative Procedure Act provides that the opportunity for oral presentations may or may not be